

JENDICK – Appln. No. 09/412362 – Attorney Docket: 9521/256642

REMARKS

Claims 44-82, 90, 91, 93-96, 98, and 99 are pending. By this Second Supplemental Amendment, claims 83, 87-89, 92, and 97 are cancelled. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Applicant believes that all necessary fees have been paid. However, in the event that any fees are missing or insufficient, please charge the necessary fees to our Deposit Account No. 03-3975, under Atty Dkt. No. 9521/256642, and proceed to consider this Second Supplemental Amendment.

Applicant appreciates the courtesy extended by Examiner Gerrity to Applicant's undersigned representatives during a telephonic interview conducted on July 3, 2002. The substance of the telephonic interview is discussed below.

To begin with, claims 83, 87-89, 92, and 97 have been cancelled without prejudice or disclaimer to expedite allowance of the remaining claims. Applicant reserves the right to pursue these claims in a continuing application.

In the telephonic interview, new claims 97 and 98 were discussed which disclose extending the laser engravings a finite depth into a metal portion of the metal strip. The Examiner asserted that Stasiuk discloses engraving into the metal of the tab. The Examiner specifically pointed to column 3, lines 15-20 and column 8, line 58-column 9, line 17 of Stasiuk to support this conclusion.

After further review of the Stasiuk reference, Applicant believes that the Examiner's assertion is inaccurate. As aforesaid in our June 6 Supplemental Amendment, Stasiuk does not laser engrave metal – it only teaches removal of a non-metal coating to expose the underlying metal (aluminum) layer. Stasiuk is entirely directed to the laser removal of a coating provided on the tab to merely expose the metal, and nowhere discusses that the laser engravings extend a finite depth into a metal portion of the metal strip to form marks in at least one of the upper surface and the lower surface of the metal strip.

For example, to begin with, the Abstract states that the decoration can be made by applying color, printing, embossing, laser removal of a coating. There is no mention of laser removal of metal. In the Summary of the Invention at column 3, lines 13-15, Stasiuk states that it is a related object of the invention to provide a decorative tab having a coating and having tab decorations generated thereon by a laser or other optical devices.

The Detailed Description section does not include any disclosure whatsoever that the laser is used to remove a metal portion of the tab. For example, Stasiuk discloses two methods for providing pineapple texture to the tab. In column 6, lines 58-61, Stasiuk

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discloses that the tabs may be stamped to emboss a pineapple-like texture onto the tab. In column 9, lines 36-45, Stasiuk discloses that a laser may burn or cut-through coatings on the tab to expose the aluminum present underneath such that a pineapple-like texture will be provided by the process. Stasiuk does not disclose laser removal of a metal portion of the metal strip. Stasiuk only teaches using a laser to remove coatings on the metal strip and discloses using stamping to engrave into the metal.

Further, at column 8, line 66-column 9, line 3, Stasiuk discloses that anodized or coated aluminum is treated with a laser that burns or etches a predetermined tab decoration into the tab or tab material such that aluminum shows through the coating or anodized layer. In column 10, lines 13-15, Stasiuk notes that the tab stock is coated with an organic coating material and the decoration is applied by a laser etching process. In column 10, lines 23-25, Stasiuk again emphasizes that he is specifically concerned with laser removal of a coating when he states “once again, the decoration is advantageously applied by use of a laser to remove one or more layers of a coating material.” (Emphasis provided.)

Further, all the claims of Stasiuk are directed to laser removal of a coated layer disposed on the tab to expose an uncoated surface of the pull tab.

Accordingly, Stasiuk’s Abstract, Summary, Detailed Description (including each and every example) and claims are directed to a laser which removes a coating to expose, but not etch, the underlying metal surface. Despite the great deal of effort Stasiuk took to emphasize this feature in repeated examples, the Examiner asserts that a single passage in the Summary section teaches a different embodiment which is utterly contrary to all the teachings in the Detailed Description. Specifically, column 3, lines 15-20 states: “In one embodiment there is provided a decorative tab having an uncoated surface, anodized surface or coated surface, or multiple layers of such surfaces, which is then treated with at least one optical device that generates substantially permanent tab decorations thereon.” However, this passage, when read in context, does not support laser engraving into the metal of the strip, to remove a metal portion thereof. Specifically, the quoted passage in column 3 is contained within the paragraph which begins “It is a related object of the invention to provide a decorative tab having a coating . . .”. Underlining added. The quoted language which the Examiner relies upon directly follows this sentence and therefore can be reasonably interpreted as relating to that object – to provide a decorative tab having a coating. Moreover, it is improper to read this passage in a vacuum without regard to what the remainder of the application and drawings overwhelmingly teach – use of a laser to remove a coating to merely expose the underlying metal.

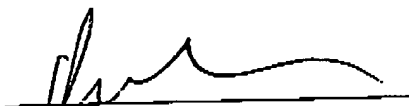
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The Examiner also pointed to column 8, lines 61-64 to support laser engraving into the metal of a metal strip. However, this passage merely states that in making decorative or decorative-symbolic tabs for an aluminum container, anodized aluminum or aluminum coated with an organic coating may be used. Applicant interprets this passage to mean: use a coated aluminum tab to create a decorative effect on the tab for an aluminum container, not to use a laser on an uncoated surface. Moreover, Stasiuk's uses a coated aluminum substrate to provide decorations on the container lid, body or bottom. See Figure 12 and column 10, lines 27-49.

Finally, as discussed during the interview on July 3, Stasiuk does not expressly disclose intermittent feeding of a metal strip. Moreover, Applicant believes that Stasiuk's disclosure inherently teaches intermittent feeding, at least because Stasiuk's environment is tab stock feeding using a conversion press 70 which includes a die area 75. Conventional tab stock feeders are intermittent in nature.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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Appendix

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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 83, 87-89, 92, and 97 have been cancelled.